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Date: 10-19-94

Submission: [REDACTED] 000

JUL 22 1994

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code.

The information submitted shows that you are organized under the Nonprofit Corporation Law of [REDACTED] on [REDACTED].

Your stated primary objective is to sponsor international educational programs. You will be providing business education on the techniques, policies, principles, and substance of the business world with concentration on the economic systems and guidelines as developed in the United States by using workshops and conferences.

You have submitted a copy of a brochure advertising 1 [REDACTED] in [REDACTED] as an example of your activities. A person could sign-up for the [REDACTED] and [REDACTED] conference-tour and for \$[REDACTED] more could sign-up for a six day tour of [REDACTED]; [REDACTED] and [REDACTED]. This additional tour had no conferences scheduled. Your spring [REDACTED] Conference was held in [REDACTED]. The itinerary of this conference describes tours, banquets, visiting the [REDACTED] Museum, attending a ballet performance, essentially emphasizing recreational sightseeing activities of the tour, with little description of the educational activities being performed.

Your tours are arranged by [REDACTED], a commercial travel company. [REDACTED], the President of [REDACTED], is Chairman of your Board of Directors. In response to a question whether [REDACTED] was competitively selected to provide travel services, you advise that [REDACTED] has been successful in arranging programs in the [REDACTED] for veterans and their experience dates from [REDACTED]. You did not show that other travel agencies were considered. You did not submit information on any criteria that you use for determining whether any of your traveling participants will be benefiting from your conferences.

You also did not submit information describing the educational activities of your conferences and if mandatory attendance is required of your travel participants in these conferences.

Section 501(c)(3) of the Code provides for the exemption from federal tax of organizations that are organized and operated exclusively for charitable and educational purposes, no part of the net earnings of which inures to the benefit of any individual.

Section 1.501(c)(3)-1(a) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3), the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section. An organization that fails to meet either the organizational or the operational test is not exempt.

Section 1.501(c)(3)-1(c) of the regulations provides that an organization will not be regarded as "operated exclusively" for one or more exempt purposes if more than an insubstantial part of its activities is not in furtherance of a purpose described in section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations states that an organization is not operated exclusively for one or more purposes unless it serves a public rather than a private interest.

Section 1.501(c)(3)-1(d)(2) of the regulations states that the term "charitable" is used in section 501(c)(3) of the Code in its generally accepted legal sense. Such term includes: relief of the poor and distressed or of the underprivileged; advancement of religion; advancement of education or science; erection or maintenance of public buildings, monuments, or works; lessening of the burdens of government; and promotion of social welfare by organizations designed to accomplish any of the above purposes, or (i) to lessen neighborhood tensions; (ii) to eliminate prejudice and to combat community deterioration and juvenile delinquency.

The presence of a single purpose not described in section 501(c)(3) of the Code, if substantial in nature, will preclude exemption under section 501(c)(3) regardless of the number or importance of truly exempt purposes. See Better Business Bureau v. U.S., 326 U.S. 279 (1945), Ct. D. 1650, 1945 C.B. 375.

Although an incidental private benefit will not destroy the qualifications of an otherwise educational organization, where an organization is serving both public and private interests the

private benefit must be clearly incidental to the overriding public interest. A contrary finding will indicate that the organization is serving private interests. Benedict Ginsberg v. Commissioner, 46 T.C. 47 (1966).

International Postgraduate Medical Foundation v. Commissioner, TC Memo 1989-36, January 24, 1989, describes an organization that the Tax Court held was not a section 501(c)(3) entity. The organization conducted continuing medical education programs abroad. The Court found that substantial nonexempt purposes were being promoted including benefits provided to a for-profit tour agency that arranged tours for the organization's seminars. The Court also found that substantial recreational and tourism purposes were being served.

Rev. Rul. 77-366, 1977-2 C.B. 192 provides that a nonprofit organization that arranges and conducts winter-time ocean cruises during which activities to further religious and educational purposes are provided in addition to extensive social and recreational activities is not operated exclusively for exempt purposes under section 501(c)(3) of the Code.

Although your conduct of seminars and conferences may be educational, you have not established that a substantial purpose and activity is not providing recreational and sightseeing activities for the participants of your tours, activities that are clearly not educational. In this regard, the itinerary shows substantial activities of a recreational and sightseeing nature. Additionally, you did not submit information whether all of your travelers will be participants at your seminars nor did you submit details whether attendance at the conferences is required of all travelers. See Revenue Ruling 77-366.

Finally, you have not established that you are not operating for the private benefit of [REDACTED], a for-profit organization. As indicated above, the president of the for-profit is the Chairman of your Board of Directors. All of the promotional information respecting the tours shows [REDACTED] as the entity providing travel services which clearly benefits the company in soliciting customers for the tours. Thus, you are directing business to a for-profit entity. Under these conditions you have not demonstrated that you do not serve the private interests of [REDACTED] in more than an incidental way.

Under the facts and circumstances and the limited information that you submitted, it is our view that you are operated similarly to the organization denied exemption under section 501(c)(3) of the Code in International Postgraduate Medical Foundation v. Commissioner, supra.

[REDACTED]

Therefore, it is our conclusion that you are not operated exclusively for one or more purposes as specified in section 501(c)(3) of the Code and that you will be operated for private interests. Thus, you are not entitled to be recognized as exempt from federal income tax under section 501(c)(3) of the Code. You are required to file federal income tax returns and contributions to you are not deductible by donors under section 170 of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have the right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State officials will be notified of this action in accordance with section 6104(c) of the Code.

Sincerely yours,

Signed [REDACTED]

[REDACTED]  
Chief, Exempt Organizations  
Rulings Branch 2

[REDACTED]  
cc: DD, Baltimore  
Attn: EO Group

cc: State Officials of [REDACTED]

cc: [REDACTED]

[REDACTED]  
7-21-94

[REDACTED]  
7/22/94